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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/263,362	03/05/1999	PAUL JOHAN NEDERVEEN	112025-0115	1718
24267	7590	03/25/2004		
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			EXAMINER MOLINARI, MICHAEL J	
			ART UNIT 2665	PAPER NUMBER 21

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/263,362

Applicant(s)

NEDERVEEN ET AL.

Examiner

Michael J Molinari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief filed on 1 March 2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitmire et al. (U.S. Patent No. 6,243,756) in view of Brim (U.S. Patent No. 5,835,914).

3. Referring to claim 1, Whitmire et al. disclose a system for use in gathering information (statistics) for use in managing a network (see column 3, lines 7-15), said system comprising: a

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plurality of network switches (multiple port repeaters, see column 6, line 38) logically organized in a stack configuration (see column 6, lines 34-38, and see Fig. 1A) so as to operate as a single logical switch (see column 4, lines 50-54 and column 6, lines 38-40 and see column 8, lines 5-10), each network switch having a plurality of ports (see Figure 8, Ports 1-12 at top of figure); an entity (management platform, see Fig. 1A, #116) separate and remote (see column 8, lines 23-26) from the plurality of switches for gathering said information (see column 8, lines 28-50); a multiplexer (multiple port repeater, see Fig. 1A, #102) separate from the plurality of network switches (they are physically and logically coupled, but they are still separate from one another, see column 6, lines 38-40) for selectively connecting, according to an arbitration scheme (backplane arbitration, see column 20, lines 61-67 and column 21, lines 1-11), said plurality of network switches one at a time (over the serial port or SLIP connection, see column 8, lines 45-46) to said single entity (see Fig. 1, #116), wherein each network switch is connected to said multiplexer by a separate connection (see Fig. 3, note that each multiple port repeater, 104-110, has a separate connection to #102), and transmits port activity-related data that are supplied to the remote entity via the multiplexer in accordance with the arbitration scheme, and are converted by the remote entity into network management-related information (see column 8, lines 28-50, note that line 35 refers to SNMP over IP. See also column 29, lines 51-53, column 23, lines 66-67, column 24, lines 1-67, and column 25, lines 1-9). Whitmire et al. differ from claim 1 in that they fail to disclose that the multiplexer is remote from the plurality of network switches. However, it would have been obvious to a person with ordinary skill in the art at the time of the invention that the multiplexer would not need to be a uniform distance from the plurality of network switches and that, to increase the distance between the multiplexer and the

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plurality of network switches, one would merely need to use a longer connection medium or an extension medium to connect them, which would have been well within the ordinary skill in the art at the time of the invention. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention to have the multiplexer be remote from the plurality of network switches. Whitmire et al. disclose that the remote entity contains a browser but do not explicitly disclose conversion of the received data by the browser. However, it is the purpose of a browser to convert input data into a format that can be easily viewed by a user. For example, Brim teaches that browsers are used to translate data so that the data can be viewed by users (see column 2, lines 16-19). Furthermore, conversion of the port activity-related data into a viewable format creates information that is related to network management because viewing the re-formatted data is part of managing the network by the user.

1. Referring to claim 2, Whitmire et al. disclose the multiplexer as a remote monitoring probe (see column 23, lines 33-53 and note that the use of RMON in the management agent, which is part of the multiplexer, makes the multiplexer a remote monitoring probe according to RMON).
2. Referring to claim 3, Whitmire et al. disclose the multiplexer as a network hub (Ethernet repeater, see column 3, lines 57-65, and see column 1, lines 61-63).
3. Referring to claim 4, Whitmire et al. disclose the multiplexer as a media access unit (see column 2, lines 25-29, and see column 3, lines 1-2 and note that the use of token ring would make the multi port repeaters media access units).

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4. Referring to claim 5, Whitmire et al. disclose that the said switches are configured to generate control signals for implementing said arbitration scheme (MASTER/TARGET, see column 20, lines 61-67 and column 21, lines 1-11).

5. Referring to claim 6, Whitmire et al. disclose that the multiplexer is configured to be controlled by said signals (see column 20, lines 61-67 and column 21, lines 1-11).

6. Referring to claim 7, Whitmire et al. disclose that said port activity-related data comprise switch port activity information (statistics, see column 3, lines 9-15. Also see Tables 1-4 for more detailed information about the statistics), and said switches are configured to permit user selection of particular switch port activity information to be supplied to the remote entity via the multiplexer (see column 4, lines 62-67 and column 5, lines 1-12).

7. Referring to claim 8, Whitmire et al. disclose program processes executed by said switches for carrying out said arbitration scheme (see column 20, lines 61-67 and column 21, lines 1-11).

8. Referring to claim 9, Whitmire et al. disclose a system comprising a plurality of network switches (network devices) configured in a stacked configuration (see column 6, lines 34-38, and see Fig. 1A), each switch having a plurality of ports (see abstract, lines 1-7, which states at least one port) including a probe port (see Fig. 3, #304) for receiving switch activity-related information (statistics, see column 3, lines 7-15) from other ports of the respective switch (see abstract, lines 1-7), a connection between the probe port of a first network switch to a monitoring probe (see Figure 1A, #116) that is separate and remote from the plurality of network switches (see Figure 1A); means for interconnecting the network switches through their respective probe ports (see Fig. 3); and means for selectively transmitting the switch activity-related information

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received at the probe ports of the network switches to the separate and remote monitoring probe one network switch at a time, through the probe port of the first network switch (see column 8, lines 20-50, note that the data is sent by the other switches to the first network switch through the probe port of the first network switch, which then transmits the data to the Management Agent), wherein the separate and remote monitoring probe converts the received switch activity-related information into network management-related information (see column 8, lines 20-50).

Whitmire et al. disclose that the remote entity contains a browser but do not explicitly disclose conversion of the received data by the browser. However, it is the purpose of a browser to convert input data into a format that can be easily viewed by a user. For example, Brim teaches that browsers are used to translate data so that the data can be viewed by users (see column 2, lines 16-19). Furthermore, conversion of the switch activity-related data into a viewable format creates information that is related to network management because viewing the re-formatted data is part of managing the network by the user.

9. Referring to claim 10, Whitmire et al. disclose that said switches are configured to implement an arbitration scheme for determining the order in which the activity-related information of each switch is provided to said probe (see column 20, lines 61-63).

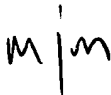
10. Referring to claim 11, Whitmire et al. disclose that said probe ports (see Fig. 5, #545) are solely for transmission of said activity-related information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Molinari whose telephone number is (703) 305-5742. The examiner can normally be reached on Monday-Thursday 8am-6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (703) 308-6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Joseph Molinari



HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600